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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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Mark M. Ishikawa

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ORRICK, HERRINGTON & SUTCLIFFE, LLP

IP PROSECUTION DEPARTMENT

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EXAMINER

DURAN, ARTHUR D

ART UNIT

PAPER NUMBER

3622

MAIL DATE

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02/11/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

09/821,259

Applicant(s)

ISHIKAWA, MARK M.

Examiner

Arthur Duran

Art Unit

3622

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 31 October 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 54-73 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 54-73 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

1. Claims 54-73 have been examined.

Response to Amendment

2. The Amendment filed on 10/31/2007 is sufficient to overcome the prior rejection. A new 35 USC 103 rejection adding the Dane reference has been made.

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 10/31/07 has been entered.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 54-73 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bezos (6,029,141) in view of Messer (2004/0230491) in view of Dane (20040215623).

Claims 54, 59, 60, 62, 64, 65, 66, 67, 72:

Examiner notes that Applicant's claims concerning the data interface, data interface provider, and content provider are read in light of Applicant's Specification (Paragraphs [36, 45, 37, 40]).

Bezos discloses combining predetermined Content, an Interface Provider Identification Code, and a Dynamically-Generated User Identification Code to Form a Data Interface, Providing the Data Interface to a User System, and Receiving a Request for Selected Content that is Formed by Combining the Interface Provider Identification Code and the User Identification Code (Fig. 8; col 15, lines 5-16; col 17, lines 10-29; col 8, lines 16-31; col 13, lines 41-54; col 14, lines 1-11).

Note that Bezos discloses that the advertiser can use any of the predetermined content available from merchant (Amazon) website. And, note that the advertiser presents predetermined content that also includes a link with an advertiser identifier as well as a user identifier.

Bezos further discloses that the url can include data interface provider identification and unique customer identification (Fig. 8). Bezos discloses that the unique customer id can be generated or added to the URL upon the user selecting a referral link (see above citations).

Bezos does not explicitly disclose that the original referral link can include the unique customer ID before selection.

However, Bezos discloses that the unique customer id can be generated or added to the URL upon the user selecting a referral link. And, Bezos discloses that the unique user id can be made a part of the advertising content that is presented to the user as the user shops (Fig. 8 and above citations). And, Bezos discloses that the unique customer ID can be part of the URL for

subsequent activity (see above citations) even if the user remains on the original advertiser webpage (col 12, lines 27-41). And, MPEP 2144.04.IV.C discloses that changing the sequence is obvious and MPEP 2144.04.VI discloses that reversal or rearranging of parts is obvious. And, Bezos discloses that the unique user id can be used for tracking and targeting a user (Fig. 1, item 160).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made that Bezos placing the user id in the URL along with the presented advertising information can occur before or after selecting the advertising link. One would have been motivated to do this in order to allow relevant targeting/tracking information on a user to be utilized by the associate/advertiser as well as the merchant or because changing the sequence or reversal or rearranging of parts is an obvious modification.

While Bezos discloses tracking requests for information, Bezos does not explicitly disclose tracking invalid requests for information.

However, Messer discloses tracking and auditing user requests for information:

"[0004] It is an object of the present invention to provide a data processing system for tracking, managing, and auditing select transactions between a plurality of computer workstations interconnected via a common network.

[0013] In order to accomplish these and other objects, the present invention includes a data processing system designed and configured to operate on one or more servers interconnected for communication. The data processing system includes a Clearinghouse server programmed to track, manage, and audit associated transactions of Users clicking-through an Content Provider web site

and purchasing a product or service from a Merchant. The Clearinghouse server is also programmed to track and report on the level of activity associated with the Users and produce, on a periodic basis, accounting statements for the participants directed to the transactions that have transpired during the defined period”.

Messer further discloses tracking both valid and invalid information requests in order to improve commerce on the web:

“[0002]. . .More specifically, the present invention relates to a referral tracking and control system for promoting goods and services on a wide area, public or private access network, such as the Internet .

[0003] As discussed in more detail in the above-referenced parent cases, the present invention includes the ability to track select USER activity while on the Web including interactions with Web pages and click-through navigation to select Web sites where purchases can be executed. Notwithstanding these advancements and advantages, commerce on the web can still be improved upon. Recognizing some of the current difficulties in implementing affiliate programs has led to the innovations presented herein.

[Abstract] An improved processing system for tracking commerce on the Internet provides for subvariable processing and includes web page scanning to discern fraud or improper content to insure proper promotion of select products within the network environment” (Abstract).

Messer further discloses determining invalid requests for information and tracking invalid requests for information, and utilizing a database and reporting for invalid requests for information:

“[0006] It is still another object of the present invention to provide a vehicle for the detection of affiliate sponsored fraud; exemplary fraud of concern includes use of a process that employs a Javascript to artificially multiply the number of clicks, impressions and/or sales on a banner or similar promotional piece.

[0026]. . In its preferred embodiments, the server is configured with a UNIX operating system. Database management software utilizing Oracle.RTM. on an Apache.RTM. Webserver is configured for the specific operating system environment. As discussed below, the Clearinghouse is further equipped to deter fraud and other non-productive activity.

[0036] Turning now to FIG. 2, a high level flow chart depicts the programming logic for detecting click fraud. Logic begins at start block 200 and the system at block 210, pulls and enters the next web page in sequence. With the large number of affiliate web pages makes a sequential review perhaps too involve. Accordingly, the system may use a number of sampling techniques, that provide some policing capability. In this way, counter variable I increments the sampled pages and sends these to the scanning program block 220.

[0037] . . . If this test is also positive, the system generates a report, positively identifying the page as a potential source of click fraud, block 250. Logic then continues at 260.

[0038] In addition to the Javascript detection algorithm, the system further tracks potential click fraud by assessing historical patterns of commerce. For example, if a click-through includes the same ID, the system measures the interval between successive clicks. A relatively fast click speed, or multiple clicks at a uniform interval reflects the possibility that the click is machine generated and potentially fraudulent. Other patterns may give further details, such as large jumps in traffic from individual sites.

[0039] For large scale burst traffic generated from a single or a grouped IP address, within a short interval, the apache server of the Clearinghouse is programmed to block such traffic from hitting the database of the ad servers, thus defending the Clearinghouse server from certain types of DOS (denial of service) attacks. Based on these types of detected activity, the system will create a report and trigger further and more comprehensive evaluations”.

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to add Messer’s auditing both valid and invalid requests for information to Bezos’ auditing requests for information. One would have been motivated to do this in order to provide prevent fraud, provide better auditing and tracking of information requests, and to provide better commerce on the web.

Additionally, the following is in regards to id expiration. Bezos discloses a shopping cart identifier that can be used to identify a user/computer system (col 8, lines 25-31; col 13, lines 29-

41; col 14, lines 51-61) and that the identifier can expire at a set time period (col 2, lines 47-65; col 13, lines 29-41; col 14, lines 51-61). Therefore, Bezos discloses an identifier that expires.

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made that Bezos user id can expire. One would have been motivated to do this in order to prevent the use of outdated user identifiers.

Additionally, the following is in regards to encryption.

Bezos does not explicitly disclose utilizing different encryption standards for secure communications.

However, Messer further discloses utilizing encryption ([32, 33]).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to add Messer's utilization of encryption to the prior art's secure communications. One would have been motivated to do this in order to provide standard and readily available technical capabilities for secure communications.

Additionally, Bezos does not explicitly disclose identifying an incoming data request as being associated with a SPAM electronic mail message.

However, Examiner notes that Messer discloses preventing Internet fraud and click fraud related to advertising (Abstract; [6, 14, 36, 37, 38]).

And, Examiner notes that Applicant's Specification states that data requests being associated with a SPAM electronic mail message and click fraud were old and well known in the art (Applicant's Specification [9, 10, 11, 12]). Hence, the Applicant's Specification states that it was old and well known that click fraud can occur from a URL on a webpage or from a URL in an email or from a URL in a SPAM type email.

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made that the combination of the prior art and Messer's identifying click fraud can be applied to websites, emails, SPAM emails. One would have been motivated to do this in order to better identify click fraud.

Additionally, Bezos does not explicitly disclose presenting a dead page to the computer system, the dead page stating that the hyperlink was fraudulently generated.

Examiner notes that Applicant's "dead page" is minimally discussed and minimally mentioned in the Applicant's Specification. Examiner could only find one mention of the term "dead page". In the Summary of the Invention in Paragraph [16], Applicant states, "Additionally, in some embodiments, the user is presented a 'dead page' stating that the link was generated fraudulently." (Applicant's Specification, [16]).

However, Messer discloses extensive tracking, reporting, and alerting associated with invalid/fraudulent hyperlink use. And, Dane discloses that if a URL is found to be fraudulent then the system will record as much information as is available about the attempted fraudulent access to identify an individual or individuals who is attempting to improperly access the data. And Dane discloses that, because the access has been determined to be fraudulent, the URL would be directed to a message indicating that access has been denied (Dane, [67]).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made that fraudulent/invalid URL requests can be returned with a message alerting the user that the request will not be honored. One would have been motivated to do this in order to better discourage fraudulent/invalid requests.

Claim 55: Bezos further discloses receiving the request for data at the merchant system (Fig. 1).

Claim 56: Messer further discloses utilizing standard encryption protocols ([32, 33]). Hence, it would be obvious that other or a variety of available and standard encryption protocols can be used. One would be motivated to do this to better offer secure data and to take advantage of commonly available encryption standards.

Claim 57: Bezos further discloses utilizing cookies and IP addresses (col 4, lines 50-55; col 5, lines 55-60).

Claim 58: Bezos further discloses generating interest (Figure 1; col 1, lines 50-60).

Claim 61, 71: Bezos further discloses providing advertising (col 1, lines 36-44).

Claim 63, 73: Bezos further discloses providing remuneration (Abstract).

Claim 68: Bezos further discloses providing supporting communication systems (Figures 1, 2, 4, 5).

Claim 69: Bezos further discloses utilizing networks (Figures 1, 2, 4, 5)

Claim 70: Dane ([81, 82, 90]) discloses utilizing wireless communications. Also, the MPEP discloses that making something portable or separable is an obvious variation (MPEP 2144.04.V). Hence, it is obvious that Bezos can utilize wireless communications with Internet communications.

Response to Arguments

4. Applicant's arguments with respect to claims have been considered but are moot in view of the grounds of rejection above. Examiner also notes the following.

On page 7 of the Applicant's Remarks dated 10/31/2007, Applicant states:

"The Cited Prior Art References Do Not Disclose or Suggest the Combination of Identifying a Request for Data Content from a Computer System as Being Associated with a SPAM Electronic Mail Message, Providing a Provider Identification Code Associated with a Content Provider System to an Invalid Response Database System, and Presenting a Dead Page to a Computer System Each if the Request Comprises an Invalid Data Request, Wherein the Dead Page States that a Hyperlink was Fraudulently Generated".

However, Examiner notes that the features of "Identifying a Data Request as Being Associated with a SPAM Electronic Mail Message and Providing the Provider Identification Code to an Invalid Response Database System in Combination with Use of Computer identification Data that Expires as Recited" were addressed in the prior action dated 5/14/2007. Please see the Response to Arguments dated 5/14/2007.

And, as noted in the Action dated 5/14/2007, Examiner notes that the main feature that the Applicant states as not being disclosed by the combination of the prior art is the identifying an incoming data request as being associated with a SPAM electronic mail message.

And, Examiner notes that Messer discloses preventing Internet fraud and click fraud related to advertising (Abstract; [6, 14, 36, 37, 38]).

And, Examiner notes that Applicant's Specification states that data requests being associated with a SPAM electronic mail message and click fraud were old and well known in the art (Applicant's Specification [9, 10, 11, 12]). Hence, the Applicant's Specification states that it was old and well known that click fraud can occur from a URL on a webpage or from a URL in an email or from a URL in a SPAM type email.

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made that the combination of the prior art and Messer's identifying click fraud can be applied to websites, emails, SPAM emails. One would have been motivated to do this in order to better identify click fraud.

In regards to the remaining features, Examiner notes that the following features are newly added features in the claim amendments dated 10/31/2007, "Presenting a Dead Page to a Computer System Each if the Request Comprises an Invalid Data Request, Wherein the Dead Page States that a Hyperlink was Fraudulently Generated".

And, relatedly, on page 8-9 of the Remarks dated 10/31/2007, Applicant states, "The Examiner, however, does not assert or cite any reference that Messer et al. teach, if the request for data content comprises an invalid data request, presenting a dead page to the computer system, wherein the dead page "stat[es] that the hyperlink [activated at the computer system] was fraudulently generated."

However, please see the addition of the Dane reference above.

And, Examiner further notes that it is the Applicant's claims as stated in the Applicant's claims that are being rejected with the prior art. Also, although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). And, Examiner notes that claims are given their broadest reasonable construction. See *In re Hyatt*, 211 F.3d 1367, 54 USPQ2d 1664 (Fed. Cir. 2000).

And, Applicant's "dead page" is minimally discussed and minimally mentioned in the Applicant's Specification. Examiner could only find one mention of the term "dead page". In

the Summary of the Invention in Paragraph [16], Applicant states, "Additionally, in some embodiments, the user is presented a 'dead page' stating that the link was generated fraudulently." ([16]).

And, Bezos does not explicitly disclose presenting a dead page to the computer system, the dead page stating that the hyperlink was fraudulently generated. However, Messer discloses extensive tracking, reporting, and alerting associated with invalid/fraudulent hyperlink use. And, Dane discloses that if a URL is found to be fraudulent then the system will record as much information as is available about the attempted fraudulent access to identify an individual or individuals who is attempting to improperly access the data. And Dane discloses that, because the access has been determined to be fraudulent, the URL would be directed to a message indicating that access has been denied (Dane, [67]).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made that fraudulent/invalid URL requests can be returned with a message alerting the user that the request will not be honored. One would have been motivated to do this in order to better discourage fraudulent/invalid requests.

Examiner further notes that while specific references were made to the prior art, it is actually also the prior art in its entirety and the combination of the prior art in its entirety that is being referred to. Also, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

When there is a design need or market pressure to solve a problem and there are a finite number of identified, predictable solutions, a person of ordinary skill has good reason to pursue the known options within his or her technical grasp. If this leads to the anticipated success, it is likely the product not of innovation but of ordinary skill and common sense. In that instance the fact that a combination was obvious to try might show that it was obvious under §103.

If a person of ordinary skill in the art can implement a predictable variation, and would see the benefit of doing so, §103 likely bars its patentability. Moreover, if a technique has been used to improve one device, and a person of ordinary skill in the art would recognize that it would improve similar devices in the same way, using the technique is obvious unless its actual application is beyond that person's skill. KSR Int'l Co. v. Teleflex, Inc., No 04-1350 (U.S. Apr. 30, 2007).

Also, KSR states that it is obvious to recite combination which only unite old elements with no change in their respective functions and which yield predictable results. KSR, 127 S.Ct. at 1741, 82 USPQ2d at 1396.

Conclusion

The following prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

a) Johnson (5,813,009) discloses storing invalid requests for information in a database (Fig. 1b; Fig. 3; Fig. 7; Fig. 6; and below):

“(124) If the request for information is rejected during the card/terminal operation, the access card holder will receive a "Not Authorized" message, and the invalid access attempt will be updated on the access card database. If a sufficient number of invalid access attempts are made using any single card,

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the card will also be invalidated for access until a revalidation routine is performed on the card by an authorized agency.

(134) Information requests not within the card bearer's authority will receive a "not authorized" message and the invalid access attempt will be updated (block 39) to card database 38";

b) Callaghan (5,737,523) discloses storing invalid requests for information in a database:

"(25) In some implementations, the NFS server 200 may respond to in authentic NFS clients with more severe security measures. By way of example, the NFS server 200 may record in a file and/or on a system terminal that an unauthenticated NFS request 22 was received from NFS client 12. Depending upon the circumstances, the NFS server 200 may determine that the NFS client 12 is attacking and preclude the NFS client 12 from making further NFS requests. One embodiment of step 436 will be described below in more detail with reference to FIG. 10.

(28) Once the export information table 222 has been searched in step 454, a step 456 determines whether the given file system 30 was found in the export information table 222. The given file system 30 is only present in the export information table 222 when the NFS server 200 is making the given file system 30 accessible for sharing. When the given file system 30 is not found in search step 454, control is passed to a step 458 which returns an error message to the NFS client 12. In some embodiments of the present invention, additional or different security measures may be performed. As described above with reference to FIG. 9, these include logging a message on the system terminal, maintaining a file record of unauthenticated client requests, and/or precluding operation of future NFS requests by the NFS client 12";

c) Pines (2005/0143064) discloses storing invalid requests for information in a database:

"[0119] As illustrated in FIG. 5D, those requested changes which cannot be implemented are stored in Rejected Updated Listings Tables 52D along with a reason for the rejection, for example, that the user is an invalid user, and/or that the requested changes is a duplicate, and the like";

d) Wagener (5,793,028) discloses storing invalid requests for information in a database.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Arthur Duran whose telephone number is (571)272-6718. The examiner can normally be reached on Mon- Fri, 8:00-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eric Stamber can be reached on (571) 272-6724. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Arthur Duran
Primary Examiner
Art Unit 3622

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2/6/2008